WOMEN'S BUREAU
U.S. DEPARTMENT OF LABOR

ISSUE BRIEF

JUNE 2024

PAID LEAVE: EQUITY IN IMPLEMENTATION

Sophia M. Mitchell and Mathilde Roux | U.S. Department of Labor

Paid family and medical leave refers to policies that enable workers to receive wage replacement when they take extended time off work for qualifying reasons, such as bonding with a new child, recovering from their own serious health condition or caring for a loved one with a serious health condition. While many workers are entitled to take unpaid leave under the Family and Medical Leave Act (FMLA),[1] there is currently no federal law providing or guaranteeing access to paid family and medical leave for workers in the private sector.[2] However, some states have their own paid leave programs and requirements.

States are required to comply with applicable federal equal opportunity law, including Title VI of the Civil Rights Act of 1964 and Section 188 of the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations at 29 CFR part 38. The Department of Labor's Civil Rights Center enforces these requirements. The suggestions in this document are not determinations of compliance or non-compliance with these non-discrimination obligations.

Paid family and medical leave[3] enables workers to take time off from work to care for themselves, a loved one or a new child but, without a federal program, access is uneven and dependent on coverage under a state program or a voluntary employer policy.[4]

A March 2023 Bureau of Labor Statistics survey on employer-provided benefits found that only 27% of private sector workers in the United States had access to paid family leave and only 43% had access to short-term disability insurance.[i] Among the lowest-wage workers, who are more likely to be women and workers of color,[ii] 95% have no access to paid family leave and 90% lack access to short-term disability insurance through their employer.[iii]

In the absence of a federal paid family and medical leave program, 13 states[5] and the District of Columbia (DC) have enacted paid leave programs that provide workers with leave to care for themselves or a loved one. In the 1940s, Rhode Island, California, New Jersey and New York created temporary disability insurance programs and in 2002,

---

1. The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. For more information, see the U.S. Department of Labor's Wage and Hour Division website: https://www.dol.gov/agencies/whd/fmla.

2. Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, requires parties that enter into covered contracts with the federal government to provide covered employees with up to seven days of paid sick leave annually, and the use of that leave partially overlaps with the reasons for use of family and medical leave. For more information, see the U.S. Department of Labor's Wage and Hour Division website: https://www.dol.gov/agencies/whd/government-contracts/sick-leave.

3. Throughout this issue brief, we use "paid family and medical leave" and "paid leave" interchangeably. Although paid leave may refer to other types of leave (e.g., paid sick time), in this issue brief we refer to paid family and medical leave, unless otherwise noted.

4. Any links to non-federal websites in this issue brief provide additional information that is consistent with the intended purpose of this federal site, but linking to such sites does not constitute an endorsement by the U.S. Department of Labor of the information or organization providing such information. For more information, please visit https://www.dol.gov/general/disclaim.

5. As of June 2024: California, New Jersey, Rhode Island, New York, Washington, Massachusetts, Connecticut, Oregon, Colorado, Maryland, Delaware, Minnesota and Maine.

California was the first to introduce a paid family leave program.[6] As states have developed their paid family and medical leave programs, they have learned from one another about how to operate their programs efficiently and ensure access to the programs for as many workers as possible. This has informed the creation of new programs and expansions to existing programs, which have helped to increase equitable access to paid leave, raising the standard for paid leave programs nationally.

There are numerous resources on program design that provide a framework for creating an equitable paid leave program that covers and is accessible to the majority of workers in a state. Some key features for promoting equity include:[iv]

- An inclusive definition of family member, including loved ones or "chosen family;"[7]
- An amount of leave that, at a minimum, meets the 12 weeks provided through the federal FMLA;
- Job protection, which provides a worker who takes leave with the security that they will be restored to the same or a comparable position upon their return;
- Progressive wage replacement rates; and
- A program with broad eligibility rules that include those most likely to be excluded from social insurance programs, including low-wage workers, part-time or seasonal workers and immigrants (including undocumented workers).

Although program design is typically codified in law and determines who is eligible for paid leave and impacts whether they can access the program, program implementation plays a key role in ensuring all those who are eligible know about the program and are able to use it. Lessons from program implementation can also inform changes to program design by providing insights into barriers to access and areas for improvement.

The Women's Bureau held a series of meetings with state paid family and medical leave administrators to learn how they are assessing and improving equity in access and usage of state paid leave programs. Beginning in December 2023, the Women's Bureau met with administrators in California, Connecticut, DC, Massachusetts, New Jersey,[8] Oregon, Rhode Island and Washington.[9] During these discussions, the Women's Bureau learned more about what states are doing to center equity in their programs through data collection and engagement with workers, employers, medical providers and local advocates. In addition to the conversations with state administrators, the Women's Bureau reviewed publicly available information including state paid leave program websites and reports. Lessons learned from implementation in these states can inform existing and new paid leave programs at the state and national levels.

This issue brief provides an overview of paid leave implementation practices for increasing equity that states highlighted during conversations with the Women's Bureau. The information provided in this issue brief is not intended to be

---

6. Temporary disability insurance programs provide workers with paid medical leave to care for themselves when experiencing a serious illness or injury, including pregnancy. For more information about the history of paid leave in the United States, visit: https://www.dol.gov/sites/dolgov/files/WB/HistoryOfPaidLeaveUS.pdf.

7. Chosen families form when two or more individuals form a close, family-like relationship, whether through blood or affinity. For more information, see A Better Balance's website: https://www.abetterbalance.org/resources/5-facts-chosen-family.

8. The meeting with the New Jersey paid leave administrators also included some grantees working on outreach and education within the state. See Outreach and Education section for more information.

9. This research project focused on publicly run state social insurance programs that had been active for at least six months. Six states with paid leave programs did not meet these criteria. New York's paid family leave program is largely privately administered, with a public option, and not directly comparable to other state programs. Colorado's program began issuing benefits in January 2024. Maryland, Delaware, Minnesota and Maine will begin administering benefits in 2026.

exhaustive or prescriptive and may not include every action each of the participating states has taken. Rather, this issue brief seeks to provide examples of the types of actions states with paid leave programs may pursue as they strive to make their programs as equitable as possible.

Outreach and Education

Ensuring that employers understand their obligations and workers are aware of their rights under paid leave programs in their state is essential for ensuring that workers, especially low-wage workers and their families, are able to access these benefits.[v] All states with paid leave programs have engaged in outreach, ranging from community engagement ahead of implementation to ongoing awareness campaigns, with some states even piloting innovative outreach programs to reach marginalized communities.

Coordinating Outreach with Community-Based Organizations

As each state implements a paid leave program, it is important that the program, either through internal resources or by working with community-based organizations (CBOs), engages in community outreach to spread awareness of the program and provide workers with the education needed to successfully access benefits.[vi] States have found that partnering with trusted messengers can help reach communities that have often been underserved.

Spotlight on New Jersey CARE grantee VietLead[10]

VietLead is a CBO focused on social justice and cultural resilience serving Vietnamese and Southeast Asian communities in Philadelphia and southern New Jersey. It has assisted community members working in nail salons, food factories, manufacturing plants, service industries and in homes as home health aides with paid leave applications, helping applicants receive approximately $100,000 in benefits within the first 18 months of becoming a CARE grantee.

New Jersey's Cultivating Access, Rights and Equity (CARE) grant has provided approximately $2.6 million to 37 CBOs over the past two years, giving these organizations the resources to pursue community-centered, multilingual outreach and education to workers.[vii] Nearly 47,000 workers have been reached through the outreach provided through the CARE grant.[viii] This partnership with CBOs facilitates diverse outreach and education methods, including peer-to-peer education, to get information about New Jersey's paid leave program (and other workplace benefits and protections) into the hands of Spanish speakers, immigrants and other disenfranchised communities.

California, which had one of the first temporary disability insurance as well as paid family leave programs in the U.S., has made many efforts to modernize processes throughout the years. For example, it has made updates to its temporary disability insurance system, phased out the exclusive use of paper applications and is implementing new outreach strategies. California has continued to automate the application process to expedite benefit determination and payment but acknowledges that automation will not work for every applicant. To ensure that paid leave is accessible to as many people as possible, California has considered the numerous barriers that low-wage workers may face when accessing benefits, and partners with advocates to provide educational materials to groups of workers that have been historically unable to access leave. For example, through quantitative and qualitative research, California administrators learned that many farmworkers are not aware of the paid leave program. This led to the program partnering with CBOs and local advocates to provide trainings to more workers in the agricultural industry.

[10] For additional information about VietLead, visit: https://www.vietlead.org/.

Although Washington's community outreach efforts were set back due to the program's launch during the COVID-19 pandemic,[11] the state has since worked to meet the needs of workers by coordinating with CBOs to support outreach. Washington is currently creating a community engagement model with the University of Washington to increase engagement at the county level and identify different strategies for reaching workers who are eligible for paid leave but have been unable to access it.

Oregon began outreach in the spring of 2022, over a year before beginning to provide paid leave benefits to workers. Through trainings and community events introducing paid leave, Oregon spread awareness of its paid leave program to both employers and workers ahead of the program's start date. Oregon is in the process of entering a formal relationship with a local CBO to increase outreach and education for workers in the agricultural industry, who the state found previously did not have access to leave and had received incorrect messaging from their employers that they are not allowed to take leave (whether paid or unpaid).

Recommendations

- Use quantitative and qualitative data to inform iterative community outreach efforts.
- Engage with CBOs to reach low-wage workers and marginalized communities.
- Ensure outreach includes messaging that resonates with the diversity of the state's workers, employers and medical providers.
- Create a multilingual outreach strategy.

Interactions with Employers

States have varying levels of interaction with employers but generally conduct outreach and education to ensure employers understand their responsibilities under the program and the rights of their employees. This outreach can include presentations and webinars, compliance technical assistance and development of employer-specific guidance documents.

Washington described outreach to employers about their responsibilities under applicable laws as a key component of their outreach and education work. Oregon has formed an advisory committee, which includes both employer and worker representatives, to provide feedback on the development of implementation rules and systems.

States generally notify employers when an employee files a paid leave claim and request verification such as confirming the dates of leave. To simplify processing and minimize delays in issuing benefits, some jurisdictions such as Rhode Island and DC have made employer responses optional, assuming that the information in the claim is correct if there is no response from the employer. This prevents unnecessary delays if the employer fails to respond and reduces the need for follow-up.

Recommendations

- Provide education and resources to employers to make sure they understand the rights of their employees and their roles and responsibilities under the paid leave program.
- Simplify the employer verification process to avoid delays in issuing benefits.

[11] Additional information on the initial outreach efforts made by Washington prior to implementation can be found at: https://www.opportunityinstitute.org/wp-content/uploads/2020/08/Preliminary-Lessons-from-Implementing-PFML-in-WA.pdf.

Interactions with Medical Providers

When an employee seeks to use paid family and medical leave for their own or their family member's serious health condition, state programs require the employee to obtain a medical certification from a health care provider.[12] Without proper medical certification, many applications will be denied due to the application being incomplete.[13] Some states have taken steps to streamline this instrumental part of the process.[14]

When workers in Rhode Island apply for paid leave online, the portal generates and auto-populates the medical certification form that needs to be completed by the worker's medical provider. This form is sent to the worker by email as a PDF and as a paper copy by mail to provide options for those who do not have access to a printer. Rhode Island administrators found that this streamlined the medical certification process and reduced the number of errors in medical certification submissions.

California has a relationship with one of the largest health care plans and health care providers in the state. In addition to providing trainings to the health plan's staff to make sure they are aware of the information needed to complete the medical certification part of a paid leave application, the state paid leave program and the health plan have a data sharing agreement where medical information for paid leave applicants is provided in bulk to the paid leave program on a regular basis, rather than sent individually. This process allows determinations to be made more quickly. Additionally, medical providers are encouraged to register with the paid leave program online and to submit medical certification forms electronically to complete patients' applications more quickly. California has a hotline that medical providers can call for assistance in completing paperwork. In the future, administrators plan to implement a requirement that all medical certification forms be filed electronically, although a legislative amendment may be needed for enforcement.

Massachusetts is piloting an electronic medical record process which would allow medical providers to submit medical certification paperwork for their patients' paid leave claims. This process would give medical providers electronic access to their patients' medical certification forms, and the ability to complete the necessary information directly through the paid leave portal. When this electronic medical record process is established, it will be able to cover the majority of medical providers in the state.

Recommendations

- Ensure that medical providers are aware of their role in the paid leave application process through continued trainings and opportunities to ask questions.
- Consistent with federal equal opportunity laws, including access for individuals with disabilities, make efforts to automate the medical certification process by allowing submission of medical certification forms electronically.

---

12. Medical certification is not required for all qualifying reasons for paid family and medical leave. For example, a parent or guardian applying for paid leave to care for a new child would only need evidence of the relationship, such as a birth certificate, adoption certificate or paperwork establishing the child's placement in the applicant's care.

13. For more information about issues surrounding medical certification, visit: https://www.clasp.org/wp-content/uploads/2022/07/2022_DC-Paid-Leave.pdf.

14. These innovative approaches to streamline the medical certification process must comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to ensure the privacy of health information. For more information about HIPAA compliance for professionals, visit: https://www.hhs.gov/hipaa/for-professionals/index.html.

Application Access

A key aspect of creating an equitable paid leave program is ensuring that all eligible claimants can access and successfully complete the application. This includes providing the application in an easy-to-use format, in plain language and in multiple languages to increase access for all claimants, including those with barriers such as limited access to technology, low literacy, limited English proficiency or disabilities. Providing assistance to claimants who have difficulty filling out the application is also critical.

Application Format

States can use a variety of application formats, each with its own set of advantages and disadvantages. All states with active paid leave programs offer multiple ways to apply, with at least one alternative to applying online (most commonly by requesting a paper form to mail in or applying over the phone). Both DC and Rhode Island noted that the online application can help reduce errors and ensure completeness by requiring applicants to fill in every field and attach required documentation right away. In DC, claimants applying by phone must submit required documentation within 48 hours to proceed with their claims. Massachusetts highlighted that their online application is optimized for mobile format, allowing claimants to complete the application on their mobile device rather than having to use a computer.

States have noted in previous studies that eliminating paper applications may reduce access for some claimants.[ix] As a result, several states continue to offer paper applications for those who are unable to submit their applications online.[15]

Language Access

Language access is a key aspect of increasing equity in paid leave programs. All states provide at least some content in a language other than English, and states continue to make changes to implementation practices to comply with applicable equal opportunity laws and increase equity. Practices to expand language access include: translating websites, applications and other resources into multiple languages; providing language support through an interpretation service in person or over the phone; and providing outreach materials and conducting outreach in multiple languages tailored to different communities. Multiple states reported leveraging bilingual staff to conduct outreach or provide assistance in multiple languages. Staff conducting interpretation or translation may require additional qualifications beyond fluency in the language to ensure high-quality language assistance.

Application Assistance

Beyond providing the application in multiple formats and languages and making staff available to answer questions by phone, over email or in person, additional application assistance may be helpful for those who face barriers to applying for paid leave.[x] Both Connecticut and New Jersey partner with CBOs that help claimants fill out their applications. In California, organizations that provide application assistance may reach out to paid leave program staff through a dedicated email address to receive one-on-one help for specific claims. In New Jersey, some CARE grantees funded for outreach and education also provide navigator services.[16] Although Washington does not currently fund CBOs to conduct outreach and application assistance, the state provides outreach support to community resource navigators working through CBOs.

---

15. California, New Jersey, Oregon, Rhode Island and Washington accept paper applications by mail. Oregon also accepts applications over the phone. Connecticut, DC and Massachusetts do not offer paper applications but accept applications over the phone.

16. For more information about navigators, see: https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/NavigatorLitReview_20211203_508.pdf.

Recommendations

- Provide applications in multiple formats including paper applications and/or a process for filing by phone, and consider optimizing web pages for mobile view.
- Translate website, application and informational resources into multiple languages and ensure use of plain language. Provide multilingual staff and/or interpretation services, as appropriate, for phone and in-person interactions with applicants.
- Provide navigator services and/or partner with CBOs to provide additional support to claimants.

Using Data to Make Improvements

Although every state has different IT systems and data analysis capabilities, there are many sources of data states can use to learn more about paid leave program implementation successes and challenges. States are leveraging data to identify pain points in their paid leave systems to make improvements and inform their outreach and education strategy. Many of the initiatives highlighted throughout this issue brief are informed by data analysis.[17]

Analyzing Claims Data

Several states discussed leveraging claims data gathered through the application process to better understand the demographics and leave needs of claimants, challenges with the application or systems, and opportunities for improvement. Although all states have access to claims data within their program, the data is generally not comparable across different states, as states do not all collect the same data and may use different definitions for various data points.

Assessing Equity in Access

States can analyze claims data to understand who is using paid leave and where there may be barriers to access that need to be addressed to increase equity in the program.[xi] For example, California has made many changes to the state's paid leave program since its initial implementation in 2004 but continues to observe disparities in usage by income level. This has led the state to make program design changes, such as increasing reimbursement rates for lower-income claimants, which expands access for workers who cannot afford to lose a portion of their income while on leave. Although Oregon's implementation is one of the most recent among active state paid leave programs, program administrators have already noted some disparities in uptake by income and are monitoring claims data to identify needed adjustments in outreach and education or possible changes to program design.

Improving Applications and Systems

Data can also be useful for identifying pain points in the application process and highlighting functionality issues with online applications.

Data has helped DC identify the need for staff training and other system and program improvements. For example, appeals and denials data has provided information about challenges faced by claims examiners and disparities in denial rates between individual examiners that could indicate a need for further training. Oregon has used processing time data to identify bottlenecks in the application system and make process improvements to reduce processing time

[17]. Some states produce public-facing reports that showcase some of this data to promote transparency and accountability, which can be found on the state's paid leave website.

and delays in benefit payments, which is particularly important for claimants who cannot afford to go without income even temporarily.

Connecticut administrators identified incomplete or insufficient documentation as the primary reason for claim denial. Using this data, Connecticut created a document dashboard, implemented text message reminders and made improvements to claimant letters, all of which have led to an increase in application completeness and a reduction in call center volume. Connecticut also noted challenges for claimants in applying for bonding leave immediately following their pregnancy/childbirth leave and subsequently streamlined pregnancy/childbirth and bonding claims to allow claimants who wish to take both types of leave consecutively to submit a single application.

Informing Outreach and Education

Claims data can be used to inform outreach and education efforts. Massachusetts uses geographic data to identify areas of the state where uptake is lower and targets outreach and education to these areas. Connecticut has leveraged data to direct outreach efforts and demonstrate the need for the paid leave program. A publicly available map is updated every month with town-level data for claim applications per 10,000 residents. The data on the map highlights parts of the state with lower take-up rates that could potentially benefit from increased outreach and education and provides specific data to state legislators about usage of paid leave in their districts. California administrators have also leveraged denials data as an indicator of the need for more education and better outreach materials including clearer website content.

Identifying Fraud

All state administrators noted that individual fraud, such as willfully submitting false or incorrect applications to obtain benefits, is rare. Rather, multiple states identified large-scale organized fraud attacks and identity theft cases as a growing concern not just in paid leave programs, but also in unemployment insurance,[xii] and discussed data as a tool to identify, prevent and address such fraud.

For instance, several states mentioned becoming familiar with patterns in their paid leave system as a key tool for identifying fraudulent activity. Data can be a tool for analyzing patterns and identifying outliers. For example, DC has created extensive internal data dashboards that are updated in real time to enable staff to easily access information about key metrics and track take-up rates and seasonality in program usage. Understanding trends in program usage has helped staff identify potential signs of fraud, such as unusual spikes in applications. DC has also leveraged technology to flag applications submitted by applicants that have been identified as fraudulent.

Recommendations

- Invest in data systems and develop uniform data across states for better comparability and to enable states to learn from each other about successful and promising approaches.
- Collect and analyze demographic data to understand any gaps between the covered population and claimants, assess equity and identify areas for improvement.[18]

[18]. Disaggregated demographic data is important for assessing equity; however, states should only collect the information that is necessary, being mindful of ways in which collecting more data may act as a barrier or deterrent for certain populations, and ensuring safeguards for protecting privacy. For more information see: https://www.whitehouse.gov/wp-content/uploads/2022/04/eo13985-vision-for-equitable-data.pdf.

- Leverage data and technology to identify organized fraud and identity theft. Develop data and information sharing mechanisms with state agencies, other states and the federal government to identify suspicious applicants or patterns in organized fraud attacks.

Sources of Qualitative Data and Other Feedback Mechanisms

In addition to claims data, many state paid leave programs have implemented and leveraged other feedback mechanisms to collect information about pain points and needed improvements.

Call Centers

States can leverage information from their call centers to better understand common questions and challenges with completing the application. Both New Jersey and Massachusetts highlighted efforts around their call centers, noting that making improvements based on call center information can improve wait times for applicants, reduce call volume and free up call center staff to help claimants with more complex cases.

Massachusetts tracks information from its call center to understand what people are calling about and where there might be a need for improvements to the application system or process. Based on the information gathered, Massachusetts has improved their application portal to make the process easier, reduce confusion and reduce call volume.

In addition to informing needed changes to the application process, information from the call center allowed New Jersey to make improvements such as creating self-service options and implementing a callback system, which have reduced repeat caller rates and wait times. Based on information gathered through these methods, New Jersey has made recommendations about program modifications that would reduce common barriers to access for claimants.

Beyond informing improvements to the application or process, call center data can be useful for identifying other challenges in program implementation. For example, in Oregon, calls to the call center are also used to identify gaps in staff training.

Surveys, Outreach and Other Data

Several states use other feedback mechanisms such as surveys, outreach partners and outreach metrics to gather information about program implementation.

For example, beyond program data, DC collects feedback from claimants through a survey built into the system once a claim is completed, an anonymous questionnaire on the paid leave website and outreach events. Employers can also contact the program office directly to provide feedback. New Jersey has partnered with a research institution to conduct surveys on awareness of and access to paid leave.

Washington uses surveys, usability studies of the application and focus groups to understand how the application process is working for claimants and to make improvements to it. The data and research team works closely with the product team to implement new and improved functions in the application system based on feedback gathered and to meet data needs for future analysis. Similarly, the program's community engagement team works closely with the product team to convey feedback received during outreach efforts and make improvements as needed.

California leverages multiple sources of information, including an annual survey sent to past claimants, social media comments and questions received during outreach webinars to better understand what is working well in the application

process, how the program is received by customers and whether improvements are needed to the application, website content and outreach materials. Connecticut also uses social media and website metrics to evaluate engagement with informational materials and adjust content as needed.

New Jersey has used feedback about outreach and education needs, as well as challenges in the application process, from their CARE grantees to make improvements to their systems. By gathering this qualitative data and using methods such as human-centered design and user testing, New Jersey has created outreach and education tools that help improve the application system and reduce confusion. For example, feedback from applicants about challenges with using New Jersey's Temporary Disability Insurance (for pregnancy and childbirth recovery) followed by Family Leave Insurance (for bonding with a new child) for birthing parents led to the development of New Jersey's Maternity Coverage Timeline Tool to help applicants understand when to apply for each benefit.

Recommendations

- Leverage qualitative data sources and other feedback mechanisms to better understand patterns behind claims data and identify challenges and solutions.
- Seek feedback from various stakeholders and create lines of communication between program staff and stakeholders for developing and testing proposed improvements.

Spotlight on Staffing

Several states specifically highlighted experienced and well-trained staff as an important component for ensuring an efficient and effective paid leave program. For example, New Jersey created an outreach team from experienced case examiners who had an interest in developing the state's outreach and education efforts based on their prior experiences as examiners. New Jersey also relies on staff to provide suggestions for needed improvements in addition to seeking input from other sources. Similarly, DC recognizes that experienced and knowledgeable staff can enhance the functioning of their paid leave program and has created pathways to career advancement to help retain staff. California has also employed retention strategies such as evaluating job classifications and pay bands to ensure that salaries are appropriate for the job duties, implementing a staggered approach to training that allows new staff to gain expertise to grow into their role, and creating more opportunities for career advancement within the agency. California also focuses on ensuring all employees can provide feedback on areas for improvement to increase staff buy-in. As Oregon's program was implemented, issues arose in processing claims that highlighted the need for improved staff training. Based on the experiences of staff, Oregon developed new training materials and guidance for all staff, including improved onboarding with a shadowing period for new staff. Oregon also added a staff person dedicated to equity and inclusion early in program implementation.

Recommendations

- Invest in staff training, professional development and career pathways to promote retention.
- Create opportunities for staff feedback to inform program improvements.

Job Protection

Although job protection is a program design feature rather than an implementation choice, states with or without job protection included in their paid leave programs can still take steps to ensure workers and employers understand the job protection that may be available under federal and state laws.[19] For example, DC, New Jersey and Oregon

described efforts to collaborate with enforcement agencies within their states by referring enforcement issues to the appropriate agency or collaborating on the development of outreach materials. In addition to enforcement, states also conduct outreach and education with employers to ensure they understand their responsibilities under applicable laws (see Interactions with Employers section).

Recommendations

- Include job protection in paid leave laws to ensure that workers eligible for leave benefits are also entitled to job protection, no matter the size of their employer or tenure with that employer.
- Coordinate outreach and education with relevant state and federal enforcement agencies to ensure workers and employers understand available job protection, including how multiple laws may overlap or complement each other.

Conclusion

As states implement new and expanded paid leave programs, opportunities exist to increase equity in access to benefits. Although legislative changes may be necessary to increase equity in certain aspects of program design, state administrators of paid leave programs have many levers to increase equity in implementation. States can learn from each other's experiences, including: improving outreach and education to underserved communities; increasing access to applications for workers with limited access to technology, limited English proficiency, low literacy or disabilities; using data to identify challenges and make improvements; and leveraging the expertise of program staff. By putting equity at the center of their efforts, paid leave administrators can ensure that more workers have access to paid time off to care for themselves and their families. Policymakers and advocates for expanded paid leave can learn from the experiences of the states with existing programs to create equitable and accessible programs.

Acknowledgements

The Women's Bureau would like to thank the state paid leave program staff and community-based organization grantees who shared their expertise, lessons learned and time.

[19] The FMLA provides certain workers with job-protected unpaid leave for, among other reasons, their own serious health condition, to care for a family member with a serious health condition or for the birth or placement of a new child. Only about 56% of U.S. employees are eligible for FMLA, and low-wage workers have even lower access (38%), often due to their total hours worked or tenure requirements. See: https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018PB1WhoIsEligible_StudyBrief_Aug2020.pdf.
While there are a number of federal and state legal protections that a person may be entitled to depending on their health condition (e.g., Americans with Disabilities Act, Pregnant Workers Fairness Act, Pregnancy Discrimination Act, Title VII), paid leave programs that include job protection provide better access since workers do not need to understand multiple laws or complete separate paperwork to receive both compensation and job protection.
Nine of the states with paid leave have a state family and medical leave law which provides additional protections.
See: https://www.dol.gov/agencies/whd/state/fmla.
Eight of the states with paid leave have job protection included in their laws.
See: https://www.dol.gov/sites/dolgov/files/WB/HistoryOfPaidLeaveUS.pdf.

ENDNOTES

[i] Bureau of Labor Statistics, "Employee Benefits in the United States, March 2023" (2023 Excel tables, March 2023 All Data), U.S. Department of Labor, September 21, 2023, https://www.bls.gov/ebs/publications/employee-benefits-in-the-united-states-march-2023.htm.

[ii] Bureau of Labor Statistics, "A profile of the working poor, 2021 (Report 1106)," U.S. Department of Labor, November 2023, https://www.bls.gov/opub/reports/working-poor/2021/home.htm.

[iii] Bureau of Labor Statistics, "Employee Benefits in the United States, March 2023" (2023 Excel tables, March 2023 All Data), U.S. Department of Labor, September 21, 2023, https://www.bls.gov/ebs/publications/employee-benefits-in-the-united-states-march-2023.htm.

[iv] Pronita Gupta, Michael Vorgetts and Gayle Goldin, "Equity Matters: Lessons for Paid Family and Medical Leave," Family Values @ Work and The Center for Law and Social Policy, June 2021, https://www.clasp.org/wp-content/uploads/2022/01/2021_Equity-Matters-003.pdf; Jessica Mason, "Meeting the Promise of Paid Leave: Best Practices in Program Implementation," National Partnership for Women & Families, 2023, https://nationalpartnership.org/wp-content/uploads/2023/02/meeting-the-promise-of-paid-leave.pdf; Employment Security Department, "Unemployment benefits for undocumented workers," Washington State, December 2021, https://media.esd.wa.gov/esdwa/Default/ESDWAGOV/newsroom/Legislative-resources/2021-12-undocumented-unemployment-benefits-program.pdf.

[v] Anjali Sakaria and Jacqueline Tosto, "Paid Family and Medical Leave: Impact and Implementation," Federal Reserve Bank of Boston, June 19, 2018, https://www.bostonfed.org/publications/community-development-issue-briefs/2018/paid-family-and-medical-leave-impact-and-implementation.aspx.

[vi] Nat Baldino and Rocio Perez, "Early Lessons from D.C.'s Paid Leave Program," The Center for Law and Social Policy, July 2022, https://www.clasp.org/wp-content/uploads/2022/07/2022_DC-Paid-Leave.pdf.

[vii] New Jersey Department of Labor & Workforce Development, "NJDOL, Community Partners Reach Nearly 47K Workers in First Year of Grant Program to Improve Access to State Benefits, Protections," December 4, 2023, https://www.nj.gov/labor/lwdhome/press/2023/20231204_caregrant.shtml.

[viii] New Jersey Department of Labor & Workforce Development, "NJDOL, Community Partners Reach Nearly 47K Workers in First Year of Grant Program to Improve Access to State Benefits, Protections," December 4, 2023, https://www.nj.gov/labor/lwdhome/press/2023/20231204_caregrant.shtml.

[ix] Pronita Gupta, Michael Vorgetts and Gayle Goldin, "Equity Matters: Lessons for Paid Family and Medical Leave," Family Values @ Work and The Center for Law and Social Policy, June 2021, https://www.clasp.org/wp-content/uploads/2022/01/2021_Equity-Matters-003.pdf.

[x] Jessica Mason, "Meeting the Promise of Paid Leave: Best Practices in Program Implementation," National Partnership for Women & Families, 2023, https://nationalpartnership.org/wp-content/uploads/2023/02/meeting-the-promise-of-paid-leave.pdf.

[xi] Rebecca Logue-Conroy, Debra Lancaster and Ludine Daux, "Implementation of Paid Family Leave in New Jersey: A Promising Work in Progress," Center for Women and Work, School of Management and Labor Relations, Rutgers, The State University of New Jersey, October 2021, https://smlr.rutgers.edu/sites/default/files/Documents/Implementation_PaidFamilyLeave_Oct2021.pdf.

[xii] Pandemic Response Accountability Committee, "Why Unemployment Insurance Fraud Surged During the Pandemic," Council of the Inspectors General on Integrity and Efficiency, April 2024, https://www.oversight.gov/sites/default/files/oig-reports/PRAC/Why-Unemployment-Insurance-Fraud-Surged-During-Pandemic.pdf.